

REMARKS

This is in response to the Office Action dated April 11, 2007. In this Office Action, Claims 1-17 were rejected under 35 U.S.C. 103(a) as being unpatentable over Chang et al. (U.S. Patent No. 7,092,216), in view of Hong et al. (U.S. Publication No. 2003/0197980).

Applicants respectfully submit that the Chang patent is not a valid prior art reference. The Office Action uses the Chang patent as a prior art reference under 35 U.S.C. § 103(a). However, 35 U.S.C. § 103(c) excludes references which may qualify as prior art under 35 U.S.C. §102(e), (f), and (g) from being used as prior art references under 35 U.S.C. § 103(a).

The text of 35 U.S.C. § 103(c) recites: "Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person." See 35 U.S.C. § 103(c), M.P.E.P. 706.02(I)(1), 37 CFR § 1.104(c)(4).

Applicant hereby represents that the subject matter of the Chang patent and the claimed present invention were, at the time the invention was made, commonly owned by or subject to an obligation of assignment to Western Digital Technologies, Inc. Moreover, the listed assignee on the face of the Chang patent is Western Digital Technologies, Inc., and an assignment recorded in the present case on April 4, 2004 also lists Western Digital Technologies, Inc. as the assignee. The forgoing is sufficient evidence that the Chang patent and the claimed present invention were commonly owned, at the time the present invention was made, by Western Digital Technologies, Inc. MPEP 706.02(I)(2).

Further, the Chang patent was filed on July 31, 2003 and published on August 15, 2006, whereas the above-referenced patent application was filed on April 1, 2004, such that the Chang patent falls within the §103(c) exclusion.

Therefore, the Chang patent is not a valid prior art reference and cannot be used to render obvious the embodiments of Applicants' present invention set forth in Claims 1-17. Should the Examiner have any suggestions for expediting the allowance of the application, the Examiner is invited to contact Applicants' representative at the telephone number listed below.

The Commissioner is hereby authorized to charge any payment of required fees associated with this Communication or credit any overpayment to Deposit Account No. 19-4330.

Respectfully submitted,

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